

Docket 2024738-7030163001
CYM-032CON (11.015012)

REMARKS

Claim Objections

Claim 32 has been amended to correct the typographical error caught by the Examiner.

Claim Rejections Under §102(b)

Claims 16-25, 29-32, and 37 stand rejected under 35 U.S.C. §102(b) in view of USP 5,791, 345 ("Ishihara"). Applicants respectfully note that, in order to sustain a claim rejection under §102(b), each and every limitation of the claim must be found, expressly or inherently, in the cited reference.

Independent claim 16 has been amended to recite that the optical instrument lighting system is "for imaging stained biological material fixed on a slide," and that the lighting system further includes "at least one lens disposed between the light source and the slide" No such system is disclosed or suggested in Ishihara.

In particular, Ishihara discloses and describes a non-invasive system for analyzing blood in a blood vessel of a subject, without having to collect a blood sample (or specimen), by imaging the blood in the body vessel and then analyzing the image. No teaching of analyzing a stained biological specimen is taught or suggested in Ishihara. Further, the Examiner's attention is directed to figures 24 and 25 of Ishihara, where the LED (array) 82 is shown circumferentially surrounding the lens 38b. The light illuminated from the LED 82 is reflected directly onto the blood vessel (in a finger of the subject) without passing through any lens or lens system. Nor is the subject vessel (a live finger) fixed to a slide.

Thus, claim 16 is now believed allowable of Ishihara. For at least the same reasons as claim 16, dependent claims 17-28 are also believed allowable over Ishihara.

Docket 2024738-7030163001
CYM-032CON (11.015012)

Independent claim 29 has been amended to further recite the LED array includes a substrate, with the first and second narrowband wavelength LEDs being formed on respective first and second dies attached to the substrate. The claimed LED array further includes a plurality of lenses, including a first lens positioned over the first die, and a second lens positioned over the second die. No such LED array is disclosed or suggested in Ishihara, alone or (regarding dependent claim 36) in combination with Wunderman et al. USP 6,122,042 ("Wunderman"), even assuming such combination were proper.

Thus, claim 29 is now believed allowable of Ishihara. For at least the same reasons as claim 29, dependent claims 30-32 and 36 are also believed allowable over Ishihara, alone or in combination with Wunderman.

Independent claim 37 has been amended to recite that the optical instrument lighting system is "for imaging stained biological material fixed on a slide," and that the lighting system further includes "at least one lens disposed between the slide and the respective first, second and third LED arrays" Again, no such system is disclosed or suggested in Ishihara. Thus, claim 37 is now believed allowable of Ishihara.

New Claims

New dependent claims 38-41 have been added to the system of claim 16, and new dependent claim 42 has been added to the LED array of claim 29, in order to further define what the applicants consider to be their invention. No new matter has been added.

Docket 2024738-7030163001
CYM-032CON (11.015012)Conclusion

In view of the above amendments to the claims and following remarks, all pending claims are now believed to be allowed over the cited reference, and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at the number listed below.

Respectfully submitted,
BINGHAM MCCUTCHEN LLPDated: April 1, 2005By: David T. Burse
Reg. No. 37,104BINGHAM MCCUTCHEN LLP
Three Embarcadero, Suite 1800
San Francisco, CA 94111-4067
(650) 849-4824